

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUSSELL EUGENE
WESTERFIELD,

Defendant.

4:19-CR-3077

ORDER

The defendant has filed what the Court has construed as a motion for copies. [Filing 55](#). The Court will grant that motion in part.

The Court will direct the Clerk's Office to provide the defendant with some of the documents he has requested. However, the Court cannot provide the defendant with a copy of his sentencing transcript, because no transcript was prepared. An indigent defendant bringing a postconviction proceeding under [28 U.S.C. § 2255](#) may have a transcript prepared at the government's expense, if the suit is not frivolous *and* the transcript is needed to decide the issue presented. [28 U.S.C. § 753](#). But any request for a free transcript prior to the filing of a § 2255 motion is premature. *Chapman v. United States*, 55 F.3d 390, 390-91 (8th Cir. 1995). And the defendant has not filed such a motion.

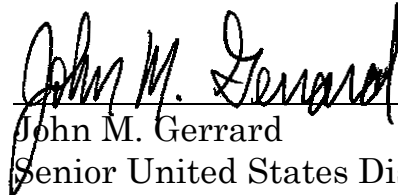
The defendant can pay for a transcript to be prepared. The Court will direct the Clerk's Office to provide the defendant with a copy of a request for transcript form, which the defendant may complete and return. The defendant's sentencing hearing was recorded by a court reporter, so if the defendant returns the request for transcript form, the court reporter will contact the defendant to arrange for payment of the fee.

IT IS ORDERED:

1. The defendant's motion for copies ([filing 55](#)) is granted in part.
2. The Clerk of the Court shall provide the defendant with a copy of this order, a copy of the docket sheet, and copies of the following filings: [filing 1](#), [filing 35](#), and [filing 52](#).
3. The Clerk of the Court shall also provide the defendant with a request for transcript form.

Dated this 20th day of May, 2024.

BY THE COURT:



John M. Gerrard
Senior United States District Judge